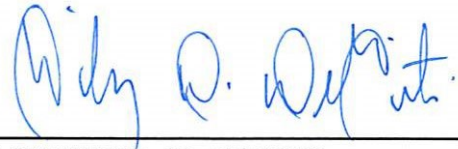




After consideration of the law and the case record, and accepting the representations in Defendant's Response, the Court finds: (1) the Commissioner's position in the case was not substantially justified; (2) Plaintiff is entitled to an award of attorney fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d); and (3) the amount of fees is reasonable.

**IT IS THEREFORE ORDERED** that Plaintiff's Application for Award of Attorney's Fees Pursuant to the Equal Access to Justice Act 28 U.S.C. §2412 [Doc. No. 13] is **GRANTED**. The Court orders an award of attorney fees to Plaintiff pursuant to the Equal Access to Justice Act in the amount of \$5,321.70. Should an additional fee award under 42 U.S.C. § 406(b) subsequently be authorized, Plaintiff's attorney shall refund the smaller amount to Plaintiff as required by *Weakley v. Bowen*, 803 F.2d 575, 580 (10th Cir. 1986).

**IT IS SO ORDERED** this 1<sup>st</sup> day of February, 2024.



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TIMOTHY D. DeGIUSTI  
Chief United States District Judge